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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/372,509	01/13/95	BISKER	D 6819/3

BAHTA EXAMINER

D3M1/0628

CHRISTOPHER M CAVAN
WILLIAM BRINKS HOFER GILSON AND LIONE
P O BOX 10395
CHICAGO IL 60610

ART UNIT	PAPER NUMBER
1317	6

DATE MAILED: 06/28/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 (three) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-3, 7, 10-31 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3, 7, 10-31 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 1
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

Applicant's arguments filed 4/19/96 have been fully considered but they are not deemed persuasive.

Examiner withdraws the rejection under U.S.C. 103 over Payne.

In claim 1, line 8 the word "to" second occupance should be deleted.

The following is a new ground of rejection.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-3, 7, and 10-31 are rejected under 35 U.S.C. § 103 as being unpatentable over Travis.

Travis teaches a shower or a bathtub enclosure which comprises a full scale photograph or print of image or design. The article is adopted for mounting and supporting upon a wall. The photo, drawing or other graphic is imprinted with a special moisture proof, water resistant ink upon a sheet of a synthetic paper which essentially include a polypropylene film. The sheet

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surface is hard and scuff resistant and provides a suitable substrate. A layer of pressure sensitive adhesive is mounted and secured upon and overlies the back of the sheet for securing engagement with a wall. Further, a coating such as nitrocellulose lacquer or urethane is applied to the imprinted sheet to provide a sheet which is scratch and scuff resistant. See column 1, lines 37-42 and lines 60-64 and column 3, line 1-4. The reference does not teach the enlarged photograph as part of flooring surface.

However, it would be obvious to one of an ordinary skill in the art to use Travis enlarged photograph of any graphic design as flooring surface because of the way it is constructed. Therefore, the skilled person would be motivated to construct the same article from the disclosure of Travis or modify the materials for strength depending on the intended use and use the product as part of a floor tile or floor covering. Further, since the product of the reference is hard and moisture and scuff resistance it would work in the same way as applicant's claimed invention.

The Patent Examining Fax Center telecopier number is (703) 308-5436.

Any inquiry concerning this communication should be directed to Abraham Bahta at telephone number (703) 308-4412.

A. Bahta 

4/24/96


PATRICK RYAN
SUPERVISORY PATENT EXAMINER
GROUP 1300